UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

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]	No. 3:08-0145
]	Judge Trauger
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ORDER

The defendant has filed a Motion to Dismiss (Docket Entry No. 39) the claims of the plaintiff, Calvin Carter, for want of prosecution, and a Motion for Summary Judgment (Docket Entry No. 40) as to all remaining claims raised by the plaintiff, D'Angelo Jenkins. The Magistrate Judge has authored a Report and Recommendation (Docket Entry No. 54) urging the Court to grant the defendant summary judgment and dismiss this action. The plaintiff, D'Angelo Jenkins, has filed timely objections to the Report and Recommendation.

The plaintiffs are attempting, pursuant to 42 U.S.C. § 1983, to sue a building. A building is not a "person" subject to suit under this statute. Marbry v. Correctional Medical Services, 2000 WL 1720959 (6th Cir.; 11/6/00). Thus, the Magistrate Judge correctly concluded that, as a matter of law, the plaintiffs have failed to state a claim for relief against the defendant.

Accordingly, after a *de novo* review of the dispositive pleadings, the Report and Recommendation, and the record as a whole, the Court finds that the plaintiff's objections lack merit. Therefore, the plaintiff's objections are OVERRULED. The Report and Recommendation is

ADOPTED AND APPROVED in all respects. Defendant's Motion for Summary Judgment is GRANTED and this action is hereby DISMISSED¹.

An appeal of the judgment rendered herein would not be taken in good faith. <u>Coppedge v. United States</u>, 369 U.S. 438, 445-446 (1962). Therefore, the plaintiffs are NOT certified to pursue an appeal of this judgment *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

It is so ORDERED.

Aleta A. Trauger

United States District Judge

¹ By finding that this action is subject to summary judgment, the defendant's remaining motions (Docket Entry Nos. 36 and 39) have been rendered moot.